

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

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| BUDDY STRUCKMAN, | : | Case No. 1:20-cv-737 |
| Petitioner, | : | Judge Timothy S. Black |
| vs. | : | Magistrate Judge Karen L. Litkovitz |
| WARDEN, PICKAWAY | : | |
| CORRECTIONAL INSTITUTION, | : | |
| Respondent. | : | |

**DECISION AND ENTRY
ADOPTING THE REPORTS AND RECOMMENDATIONS
OF THE UNITED STATES MAGISTRATE JUDGE (Doc. 11, 17)**

This case is before the Court pursuant to the Order of General Reference to United States Magistrate Judge Karen L. Litkovitz. Pursuant to such reference, the Magistrate Judge reviewed the pleadings filed with this Court and, on December 15, 2020, submitted a Report and Recommendations. (Doc. 11). No objections were filed.

In that Report and Recommendation, the Magistrate Judge recommended that the Court grant Petitioner's motion to stay to afford Petitioner the opportunity to fully exhaust his administrative remedies. (*Id.*) That motion to stay was unopposed. The Magistrate Judge also recommended that the stay be conditioned upon Petitioner filing a motion to reinstate his case after fully exhausting his remedies, and terminating the case on the active docket of this Court. (*Id.*)

Before the undersigned reviewed the Report and Recommendation, Petitioner filed another motion to stay (Doc. 13), a motion to reopen his case (Doc. 14), and a motion to

amend his petition for writ of habeas corpus (Doc. 15).¹ No oppositions were filed to these motions. Given the new filings, the undersigned issued a Recomittal Order to the Magistrate Judge. (Doc. 16).

The Magistrate Judge submitted a Supplemental Report and Recommendations on June 22, 2021. (Doc. 17). The Magistrate Judge considered Petitioner's motion to reopen (Doc. 14) as a status update, recognizing that although Petitioner requested his case be reinstated, Petitioner also mentioned continuing the stay. (*Id.* at 1, n.1). Moreover, the Magistrate Judge noted that Petitioner has two open matters pending before the Ohio Supreme Court. (*Id.* at 2, n.2). Thus, to the extent Petitioner was requesting that his case be reinstated, that request was premature. Based on the foregoing, the Magistrate Judge again recommended the action be conditionally stayed. (*Id.* at 4).

No objections were filed to this Supplemental Report and Recommendation.

As required by 28 U.S.C. § 636(b) and Fed. R. Civ. P. 72(b), the Court has reviewed the comprehensive findings of the Magistrate Judge in both Reports and Recommendations. Upon consideration of the foregoing, and given that there were no timely objections filed in response to either Report and Recommendations, the Court finds that the Report and Recommendations (Doc. 11) and Supplemental Report and Recommendations (Doc. 17) should be and are hereby adopted in their entirety.

¹ The Magistrate Judge granted Petitioner's motion to amend his petition (Doc. 17), and the amended petition was subsequently filed. (Doc. 18).

Accordingly, for the reasons stated above:

1. The Report and Recommendations (Doc. 11), as supplemented, and the Supplemental Report and Recommendations (Doc. 17) are hereby **ADOPTED**;
2. Petitioner's motion to stay this action (Doc. 7) and supplemental motion to stay (Doc. 13) are **GRANTED** to afford Petitioner the opportunity to fully exhaust his state court remedies;
3. The stay is **CONDITIONED** on Petitioner filing a motion to reinstate the case **within thirty (30) days after** fully exhausting his state court remedies through the requisite levels of state appellate review;
4. Respondent **SHALL** file an answer to the amended petition conforming to the requirements of Rule 5 of the Rules Governing § 2254 Cases **within 60 days** of an Order reinstating this case to the Court's active docket;
5. Petitioner's request to reinstate the case (Doc. 14) is **DENIED as premature**; and
6. After the stay is entered, the Clerk shall **TERMINATE** this matter on the Court's active docket.

IT IS SO ORDERED.

Date: 7/8/2021

s/Timothy S. Black
Timothy S. Black
United States District Judge